

REMARKS

As of the date of the Office Action mailed April 9, 2009 (“Office Action”), Claims 79-89 were pending in this application. Claims 79-86 and 89 have been amended in the present amendment. New claims 92 and 93 have been added.

Claim Objections

Claims 80-86 and 89 were objected to on the basis that they depended from a cancelled claim. Applicants have amended these claims in the present amendment to depend from independent claim 79.

Section 103 Rejections

In the Office Action, claims 79-89 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,588,732 to Caceres et al. (“Caceres”) in view of U.S. Patent Application Publication 2001/0047741 to Gleeson et al (“Gleeson”) and further in view of U.S. Pat. No. 3,801,072 to Newberry, Jr. (“Newberry”). Applicants respectfully traverse these rejections.

Applicants note with appreciation the Examiner’s comments and suggestions with respect to possible amendments to the claims. As the Examiner will note, Applicants have amended independent claim 79 and have added new claim 92 to recite a fencing system containing, among other things, a “uniform, repeating pattern of embossed fiber cement fibers” provided on the front surface and the back surface of the elongated member. In addition, independent claim 79 recites that the pattern is “formed of the same material as the elongated member.” In addition, new claim 93 provides a fencing system comprising an “elongated member comprising fiber cement having fibers and a pattern, wherein the “pattern comprises a uniform repeating pattern of embossed fiber cement fibers wherein the front surface and back surface each having a pattern do not exhibit surface inconsistencies as compared to fencing systems not made of fiber cement.”

Applicants submit that neither Caceres, nor Gleeson nor Newberry, alone or in combination, discloses or suggests a fencing system as recited in Applicants’ claims as amended herein. As the Examiner acknowledges in the Office Action, the components of Caceres are not repeatable and the mold product of Newberry contains blemishes and irregularities as a result of

the quality of the raw material that forms the mold. Applicants further submit that the disclosure of a molded fence (as in Newberry), a fiberglass fence (as in Caceres), and the general references made in Gleeson, would not lead a person of ordinary skill in the art to combine these references, nor is there any motivation in these references for the combination, to arrive at Applicants' novel fencing system. Further, there is no disclosure or suggestion in the references of how the respective different components would, or even could, satisfy the limitations of Applicants' pending claims which positively recite, among other things, a fencing system containing a uniform repeating pattern of embossed fiber cement fibers provided on each of the front surface and the back surface of the elongated member (for example as recited in claim 79 and 92) which do not exhibit surface inconsistencies as compared to fencing systems not made of fiber cement (for example as recited in claim 93).

For all the reasons set forth above, Applicants respectfully request withdrawal of the rejections under Section 103 and allowance of all pending claims.

CONCLUSION

In light of the amendments and remarks set forth above, Applicants respectfully submit that the Application is now in allowable form. Accordingly, Applicants respectfully request consideration and allowance of the currently pending claims. Applicants hereby submit payment in the amounts of \$810.00 for the RCE fee and \$1,110.00 for a three month extension of time fee. It is believed that no additional fees are due at this time. If this is incorrect, Applicants hereby authorize the Commissioner to charge any fees, other than issue fees, that may be required by this paper to Deposit Account No. 07-0153. The Examiner is respectfully requested to call Applicants' Attorney for any reason that would advance the current application to issue.

Respectfully submitted,

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